REMARKS

Claims 4, 7-9, 16, and 37-43 are pending in this application. Claims 21-36 have been previously withdrawn from consideration, as a result of a restriction requirement. Claims 1-3, 5, 6, 10-14, and 17-20 have been cancelled in a previous amendment. Following entry of the amendment, claims 4 and 15 will have been cancelled without prejudice or disclaimer of the subject matter thereof.

Of the claims presently under consideration, claims 4, 7, and 16 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,286,046 (Bryant);[1] claims 8 and 37 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Bryant in view of U.S. Patent No. 6,088,708 (Burch); claims 9, 15, and 38-41 have been rejected under section 103(a) as being unpatentable over Bryant in view of U.S. Patent No. 6,625,647 ("Barrick, Jr." or "Barrick"); and claims 42 and 43 have been rejected under section 103(a) as being unpatentable over Bryant in view of U.S. Patent No. 6,078,956 (Bryant II). For the following reasons, applicants respectfully disagree and traverse.

Summary of Interview

On July 16, 2004, a telephonic interview between the undersigned, the Examiner, and the Examiner's supervisor (SPE) was held. Claims 7-9, and 37 were discussed.

No agreement as to the allowability of any claims was reached.

As to claims 8 and 37: These claims were rejected as obvious over a combination of Bryant and Burch. The Examiner's SPE agreed during the interview that Burch was unavailable for an obviousness rejection due to 35 U.S.C. § 103(c), and agreed to withdraw the use of use of Burch. However, the Examiner's SPE indicated that the examination of claims 8 and 37 would remain subject to an updated search.

As to claims 7: The undersigned, the Examiner, and the Examiner's SPE discussed claim 7's feature of "wherein the recorded information indicative of said second client request is a function of *said response*" (emphasis added). It became clear during the interview that the Examiner has interpreted the quoted and italicized "said response" to mean "a

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[1] There are three Bryant patents that appear in the list of references cited by the Examiner, and the Office Action is not clear as to which one is being applied. However, it appears from the column and line citations provided that the Office Action is applying the Bryan 046 patent.

response to the second client request," instead of referring to the response that is introduced earlier in the claim. The term "a response" is introduced on line 8 of claim 7, and is then referred to again in the form "said response" on both lines 9 and 14 of claim 7. Applicants wish to clarify that all three references to "response" refer to the *same* response – i.e., they all refer to the "response to said first client request" that is introduced on line 8 of claim 7. The quoted and italicized reference does not refer to any response to the second client request. It should be noted that claim 7 does not even require that there be a response to the second client request.

With regard to claim 9: It was discussed during the interview whether Barrick teaches the feature that it is cited for – i.e., "recording the time between two requests." The undersigned pointed out that Barrick measures the time that it takes for a single request to download, not the time between two requests. The Examiner's SPE indicated that, based on this argument, Barrick would be examined more closely.

Applicants respectfully submit that the foregoing constitutes a sufficient summary of the interview, as called for by the applicable regulations, and that no further interview summary on applicants' part is required.

Claims 8 and 37

As indicated above, the Examiner agreed during the interview that the rejection of claims 8 and 37 would be reconsidered on the ground that, under section 103(c), Burch is not available for an obviousness rejection.

Thus, applicants respectfully submit that claims 8 and 37 are in condition for allowance, and request that the rejection of claims 8 and 37 be withdrawn.

Claims 7, 9, 16, and 38-43

Regarding claims 7, 9, 16, and 38-43, the remaining pending claims, applicants wish to focus the Examiner's attention on two features, which are present either explicitly, or by virtue of dependency, in all of the pending claims:

- *Feature 1*: Recording information indicative of a request, where the recorded information is a function of a response to a previous request (claims 7, 16, 42, and 43)

- *Feature 2*: The calculation of the time between two requests (claims 9, 38, 39, and 41)

These features were also discussed in response to the previous (September 29, 2003) Office Action. In the previous Office Action, the Examiner had found these features to be taught by Chen (U.S. Patent 6,175,862). Based on the arguments submitted by applicants, the Examiner appears to have reconsidered the position that these features are taught by Chen, and now finds that these features are variously taught by Bryant and Barrick, Jr.

Applicants respectfully disagree with the Examiner's position. Based on a review of Bryant, Burch, and Barrick, it appears that these references, like Chen, differ from the claimed invention, for the reasons set forth below.

Feature 1

Claim 7 recites that there is a first client request, a response to the first client request, and a second client request. Additionally, claim 7 further recites that information indicative of the second request is recorded such that "the recorded information indicative of said second client request is a function of said response." Bryant does not teach this feature. Claim 16 recites a similar feature, and claims 37, 40, 42, and 43 incorporate these features by virtue of their dependency on either of claims 7 and 16.

The Examiner cites various portions of the Bryant specification, plus Bryant's Figure 2, as teaching the "function of said response" feature of claims 7 and 16, and concludes, on this basis, that these claims are anticipated by Bryant under section 102(e). However, the cited portion of Bryant does not teach this feature. In particular, the relevant portion of Bryant states:

> ... the monitor function write the set of URLs (i.e., the URL trace) to the file 44. In addition to the Web requests, the monitor may also record information 48 (in the request file 44 or in some other file) characterizing the response received from the server.

[Bryant, col. 5, ll. 2-6.] In other words, Bryant records two separate things: (1) requests, and (2) responses. However, Bryant does not record responses *as a function of* requests, and, in particular, does not record a second request as a function of the response to a previous request. In Bryant, the responses and requests are two entirely separate recordable items;

there is no specified relationship between (a) the responses, and (b) the way in subsequent requests are recorded. In particular, FIG. 2 of Bryant shows merely a list of unrelated URLs being recorded; none of these URLs (i.e., "requests") is recorded as a function of a previous response.

The fact that claims 7 and 16 record a request as "a function of" the previous response is significant. As explained in the application (see p. 18, ll. 17-20), users do not generally request a series of unrelated URLs, but rather follow hyperlinks on pages that have been previously received. In other words, real web requests (i.e., requests to follow a hyperlinks) are generally a function of a previously-received response (i.e., a web page), so recording requests "as a function of" a previous response is a particularly realistic way to record a web transaction. However, Bryant records only a list of URLs, and does not record a request "as a function of" a response.

Additionally, applicants note that the Examiner has previously (in the May 7, 2003 office action) rejected claim 7 as being anticipated by Bryant for substantially the same reasons as specified in the most recent office action; then later rejected claim 7 as being obvious over a combination of Bryant and Chen (in the September 29, 2003 office action); and has now, once again, rejected claim 7 as being anticipated over Bryant. Applicant notes that a "clear issue" should develop between the Examiner and applicants. MPEP 706.07.

Thus, claims 7 and 16 are patentable over Bryant, since both claims 7 and 16 incorporate Feature 1. Moreover, claims 37, 40, 42, and 43 are patentable at least by reason of their dependency on either of claims 7 and 16.

Feature 2

Feature 2 calls for recording or calculating the time between two requests. The Examiner's obviousness rejection of claims 9, 38, 39, and 41 relies on the assertion that this feature is found in Barrick. However, Barrick does not teach this feature. Barrick teaches calculating the start-to-finish time needed to process one request, not the time between two different requests. Thus, Barrick does not teach the feature for which it is cited in claims 9 and 38. Moreover, since claims 41 and 39 incorporate this feature by virtue of their dependency on claims 9 and 38, respectively, the obviousness rejection of these dependent claims is also incorrect.

Barrick, Jr., measures the start-to-finish time of one request, not the time between two requests. As Barrick, Jr. explains:

> In one embodiment, a method of gathering information relating to *a loading time experienced by a user* of information over a network is disclosed. ... [T]he browser agent is operable to log a *first time corresponding to the sending of the user HTTP GET request.* The browser agent measure a download time interval that is determined according to the difference between *the first time and a second time corresponding to the loading of the web page.* ... Thus, *the download time interval experienced by the user is measured ....*

[Barrick, Jr., col. 2, ll. 24-41 (emphasis added).] In other words, Barrick computes a "first time" corresponding to when the request for a web page is sent, and a "second time" corresponding to when the web page is actually loaded, and then measures the interval between the first and second times. According to Barrick, the time interval that is measured by this time computation is "the download time interval experienced by the user." The claims that recite Feature 2, however, are not measuring the "download time interval experience by the user," but rather the time between two different requests.

There is a difference between measuring the time it takes for a request to complete, and measuring the time between two requests: In the first instance (as in the prior art), it is the speed of the web site that is being measured; in the second instance (as in the claimed invention), it is the user's behavior that is being measured. It is possible for a request to complete in, say, a few seconds, while it may take several minutes before the user has read the response to the first request and then issued another request. Thus, the two quantities being measured are quite different.

Additionally, it should be noted these two measurements are different, because a purpose of the claimed invention is different from the purpose of the prior art. The prior art is concerned with measuring a web site's speed, while the present invention is concerned with measuring a user's behavior, so that behavior can later be "replayed." As described in the present application and in previous communications on this case, one function of the present invention is to record a user's behavior in such a way that a machine can automatically simulate (or "replay") the user's behavior based on the recording. Thus, the present invention measures the time between two requests, so that the user's request can later be played back

by a machine while recreating the "tempo" that a real user might produce during a real web browsing session.

All of the prior art cited by the Examiner teaches the measurement of the time between the beginning and end of one request, not the time between two requests. Applicants respectfully submit that these measurements are different, and that the prior art teaching of measuring the time it take for one request to complete does not make obvious the measurement of time between two requests.

Since claims 9 and 38 call for measuring the time between two requests, applicants respectfully submit that these claims are patentable over the prior art. Moreover, since claim 39 and 41 incorporate the features of either of claims 9 or 38 by virtue of their dependency, applicants respectfully submit that these claims are patentable at least by reason of their dependency.

Conclusion

Claims 7-9, 16, and 37-43 have been shown to be patentable over the prior art applied. Applicants respectfully submit that this case is in condition for allowance, and request that the Examiner issue a notice of allowance in the next office action.

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